
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

PAUL A. DROCKTON JR.,

Plaintiff,

v.

**FARMERS INSURANCE GROUP, INC.,
et al.,**

Defendants.

REPORT AND RECOMMENDATION

Case No. 2:07-cv-00011-TC-PMW

Chief District Judge Tena Campbell

Magistrate Judge Paul M. Warner

This matter was referred to Magistrate Judge Paul M. Warner by Chief District Judge Tena Campbell pursuant to 28 U.S.C. § 636(b)(1)(B).

Paul A. Drockton Jr.'s ("Plaintiff") complaint in this case was filed on January 8, 2007.¹ On July 26, 2007, the court issued an order to show cause why the case should not be dismissed because more than 120 days had passed since the filing of Plaintiff's complaint, *see* Fed. R. Civ. P. 4(m), and Plaintiff had not provided the court with the requisite proof of service to demonstrate that the summons and complaint had been served on each of the defendants named in his complaint, *see* Fed. R. Civ. P. 4(l).² That order directed Plaintiff to respond to the court in writing within ten (10) days to inform the court of the status of the case and his intentions to proceed. The order also warned Plaintiff that failure to so respond would result in a recommendation to Chief Judge Campbell that this case be dismissed. As of the date of this

¹ *See* docket no. 1.

² *See* docket no. 23.

Report and Recommendation, the ten-day period referenced in the court's order has expired, and the court has not received any response from Plaintiff.

In relevant part, rule 4(m) provides that

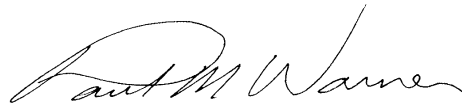
[i]f service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time.

Fed. R. Civ. P. 4(m). As stated in the order to show cause, more than 120 days have passed since the filing of Plaintiff's complaint, *see id.*, and Plaintiff has not provided the court with the requisite proof of service to show that the summons and complaint have been served on each of the defendants named in his complaint, *see Fed. R. Civ. P. 4(l)*. The court's order to show cause has provided Plaintiff with notice of this deficiency as required by rule 4(m), *see Fed. R. Civ. P. 4(m)*, and Plaintiff has failed to respond to that order. Accordingly, pursuant to rule 4(m), **IT IS HEREBY RECOMMENDED** that this case be dismissed, without prejudice. *See id.*

Copies of this Report and Recommendation are being sent to all parties, who are hereby notified of their right to object. The parties must file any objection to this Report and Recommendation within ten (10) days after receiving it. Failure to object may constitute waiver of objections upon subsequent review.

DATED this 29th day of August, 2007.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Paul M. Warner", is written over a horizontal line.

PAUL M. WARNER
United States Magistrate Judge